

APPEAL NO. 032197
FILED OCTOBER 6, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on April 21, 2003, and July 14, 2003. The record closed on July 14, 2003. The hearing officer determined that appellant (claimant) is not entitled to supplemental income benefits for the 10th quarter. Claimant appealed the determinations regarding good faith and ability to work on sufficiency grounds. Respondent (carrier) responded that the Appeals Panel should affirm the hearing officer's decision and order.

DECISION

We affirm.

We have reviewed the complained-of determinations and conclude that the issues involved fact questions for the hearing officer. The hearing officer reviewed the record and decided what facts were established. Even if we were to conclude that the report of Dr. O does not show an ability to work, the hearing officer could rely on other evidence in making her findings. Although claimant contends that the videotape evidence does not show an ability to work, the hearing officer could find that claimant had an ability to work based on the videotape. Claimant contends that the hearing officer could not rely on the videotape because it was made in early 2002 and the qualifying period was from October 1 through December 30, 2002. The hearing officer may consider evidence outside the qualifying period in making her determinations in this case. See *generally* Texas Workers' Compensation Commission Appeal No. 000058, decided February 14, 2000. We note that claimant said he agreed with his medical records that his condition did not change between February 2002 and December 2002. Although claimant also indicated that his condition worsened, the hearing officer resolved any conflicts in this regard. We conclude that the hearing officer's determinations are supported by the record and are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). We also perceive no misapplication of the law in this case.

We affirm the hearing officer's decision and order.

According to information provided by carrier, the true corporate name of the insurance carrier is **UNION STANDARD INSURANCE COMPANY OF OKLAHOMA** and the name and address of its registered agent for service of process is

**WILLIAM CLARK THORNTON
122 WEST CARPENTER FREEWAY, SUITE 350
IRVING, TEXAS 75039.**

Judy L. S. Barnes
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Gary L. Kilgore
Appeals Judge